

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN OF TEXAS
EL PASO DIVISION**

IN RE:	§	
	§	Case No. 21-30107-HCM
PDG PRESTIGE, INC.	§	
	§	Chapter 11
Debtor.	§	
	§	
	§	

**OBJECTION OF DOÑA ANA COUNTY TREASURER
TO FIRST AMENDED PLAN OF REORGANIZATION
OF PDG PRESTIGE INC. DATED JANUARY 17, 2022**

Creditor Doña Ana County Treasurer (DAC Treasurer), by and through undersigned counsel, Deputy County Attorney Fred Kennon, hereby files this Objection and response to the Debtor's First Amended Plan of Reorganization of PDG Prestige Inc. dated January 17, 2022 ("the Plan"), and specifically to the treatment of DAC Treasurer's claim as set out in subparagraph 5.1.2 therein. In support hereof, DAC Treasurer would represent to the Court the following:

1. Debtor filed a Voluntary Chapter 11 Petition on February 15, 2021. The meeting of the creditors was held and concluded on March 18, 2021. The Confirmation Hearing is scheduled for February 23, 2022, at 1:30 p.m. The Plan proposes to pay creditors pursuant to the terms of the Plan from cash flow from future operations and/or sales of property to the extent there is sufficient cash flow to service the debts in accordance with the plan.
2. The classification of claims and interests and the impairment of claims and interests is set forth in "Table I Key Plan Terms" of the Plan.
3. The Plan classifies DAC Treasurer's claim as an unimpaired Class 1 secured claim.

4. Creditor DAC Treasurer records show that there are two (2) properties owned by PDG Prestige, Inc.(Debtor) listed on its tax roll: R1905155 and R1902287.
5. On March 23, 2021, DAC Treasurer timely filed a secured Proof of Claim for property taxes in the amount of \$3,083.80, said amount representing the pre-petition property tax debt that had been incurred on the two parcels at the time of the filing of the claim.
6. DAC Treasurer's claim has not been objected to and is thus presumed to be valid.
7. Class 1 claims in subsection 5.1. of the Plan "consists of the allowed secured claim of Doña Ana County, New Mexico..."
8. However, Section 5.1.2., Treatment, states that "Each such tax authority will retain its statutory lien in, to, and/or against the Subject Property. As of the filing of this Plan, PDGP believes that no such claims exists and that all such taxes assessed are fully paid through the end of 2021." DAC Treasurer disagrees that no such claims exists or that all such taxes assessed are fully paid through the end of 2021.
9. The Plan incorrectly provides that taxes are "fully paid through the end of 2021" and implies funds or proceeds from any sale of the Subject Property might not be set aside to satisfy DAC Treasurer's allowed claim.
10. In New Mexico, pursuant to NMSA 1978 §7-38-38(A), "property taxes in the amount of ten dollars (\$10.00) or over are payable to the county treasurer in two equal installments due on November 10 of the year in which the tax bill was prepared and mailed and on April 10 of the following year."


[Document continues on next page]

11. Although Debtor paid \$1,597.04 by check dated 1/18/2022 as a first installment toward the subject taxes, that check was returned showing “not sufficient funds”. Consequently, the Treasurer’s records show the total balance on the two accounts as of the date of this Objection is now \$3,195.45.
12. Apart from the County retaining its statutory lien on the Subject Property, the Plan does not provide for payment of any existing balance of the taxes, interest, and fees due on the Subject Property.
13. Accordingly, DAC Treasurer objects to the Plan as currently written in terms of the treatment of DAC Treasurer’s claim being proposed under the Plan.
14. Section 1.3 of the Plan states in part, “Secured claims will be paid in full according to the claim(s) filed or pursuant to the agreement of the parties.”
15. Additionally, the Plan fails to account for post-petition taxes, such as those for tax year 2022 which have already been incurred as of January 1, 2022 (although not calculated or billed until later in the year) and which should be treated as administrative expenses. Although subsection 503(b)(1)(D) of the bankruptcy code provides “a governmental unit shall not be required to file a request for the payment of an expense described in subparagraph (B) or (C), as a condition of its being an allowed administrative expense”, DAC Treasurer hereby serves notice of this post-petition tax debt and the duty to pay it as it becomes due.

WHEREFORE, DAC Treasurer respectfully requests the Court enter an Order (i) sustaining this Objection; (ii) declining to confirm the Plan in its current form; and (iii) granting such other and further relief as the Court deems just and proper.

ALTERNATIVELY, DAC Treasurer requests the Court modify the Plan to adequately provide for the payment of outstanding property taxes owed to Doña Ana County Treasurer, or in its order confirming the Plan, clarify and make explicit the duty to pay such taxes, both in the form of allowed pre-petition debts as well as post-petition administrative expenses.

Respectfully submitted,


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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was served upon each attorney of record and the original upon the Clerk of Court on this the 17th day of February, 2022, (1) by electronic notice to all ECF users who have appeared in this case to date as set forth in the attached list; and (2) by regular mail to all parties appearing in the attached address lists (i.e. mailing matrix) obtained from the Court's PACER facility, as set forth in the attached list.


Fred Kennon

SERVICE LIST

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Label Matrix for local noticing
0542-3
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Western District of Texas
El Paso
Tue Feb 15 18:42:58 CST 2022

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End of Label Matrix	
Mailable recipients	25
Bypassed recipients	1
Total	26



Doña Ana County

Legal Department

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February 15, 2022

The Honorable H. Christopher Mott
U.S. Bankruptcy Judge
United States Bankruptcy Court
Western District of Texas
Homer J. Thornberry Federal Judicial Bldg.
903 San Jacinto Blvd., Suite 326
Austin, TX 78701

Letter of Recommendation

Dear Honorable H. Christopher Mott,

Mr. Fred Kennon has served in the Doña Ana County Attorney's Office in Doña Ana County for 15 years and is currently the Deputy County Attorney. He is highly competent and professional in his work, and I hereby recommend him for admission *pro hac vice* to appear before the United States Bankruptcy Court of the Western District of Texas—El Paso Division to serve as counsel for Doña Ana County Treasurer in the matter styled *In Re: PDG Prestige Inc.*, No. 21-30107 – HCM (Chapter 11).

Respectfully,

A handwritten signature in blue ink, appearing to read "N. J. Goodin".

Nelson J. Goodin
County Attorney



IN THE SUPREME COURT OF THE STATE OF NEW MEXICO

Certificate

STATE OF NEW MEXICO }
 } ss.
SUPREME COURT }

I, JENNIFER L. SCOTT, Chief Clerk of the Supreme Court of the State of New Mexico, hereby certify that, upon passing a written examination prescribed by the New Mexico Board of Bar Examiners, **FREDERICK D. KENNON** was admitted to practice law in the Supreme Court and other courts of the State of New Mexico on **October 24, 1995**, and has at all times since been and is now an active member of the Bar of said Supreme Court in good standing.

“Good standing” means that the attorney is current on payment of State Bar dues, has complied with Minimum Continuing Legal Education requirements, and is not presently under either administrative or disciplinary suspension. No disciplinary action involving professional misconduct has been taken against the attorney's law license. This certification expires 30 days from this date, unless sooner revoked or rendered invalid by operation of rule or law.

WITNESS, My official signature and the seal
of said Court this 11th day of February, 2022.



Jennifer L. Scott
Chief Clerk of the Supreme Court
of the State of New Mexico

By Zelda Abate
Deputy Clerk

UNITED STATES DISTRICT COURT

for the
District of New Mexico

CERTIFICATE OF GOOD STANDING

I, MITCHELL R. ELFERS, Clerk of this Court,
certify that FREDERICK D. KENNON, Bar # 98-48,
was duly admitted to practice in this Court on 04/22/1998, and is in good standing as a member
of the Bar of this Court.

Dated at ALBUQUERQUE, NM on 02/14/2022
(Location) (Date)



MITCHELL R. ELFERS
CLERK

DEPUTY CLERK